

POLICYHOLDERS AND THE COMMON REPORTING STANDARD

WESTWARD'S VIEW

The Common Reporting Standard (CRS) requires Canadian financial institutions to identify financial accounts held by or for the benefit of non-residents, and to report such accounts annually to the Canada Revenue Agency (CRA). **Life insurance policies with cash values and life annuity contracts** are considered financial accounts, and accordingly, the insurer is required to identify whether such contracts are **held by or for the benefit of non-residents**.

To satisfy its obligations, the insurer may require each contract owner to self-certify their **tax residence**, classify their **entity type**, and identify the tax residence of the controlling individuals when the entity is classified as a **"passive non-financial entity"**.

If the information is not reported to the insurer, then the insurer may report the contract to the CRA as a non-compliant financial account under CRS.

Classifying entity type may require assistance from the entity's accountant or tax advisor. Westward does not normally have sufficient information to prepare the self certification form for clients.

Additional CRS information can be found on the Government of Canada website at:

<https://www.canada.ca/en/revenue-agency/services/tax/international-non-residents/enhanced-financial-account-information-reporting.html>

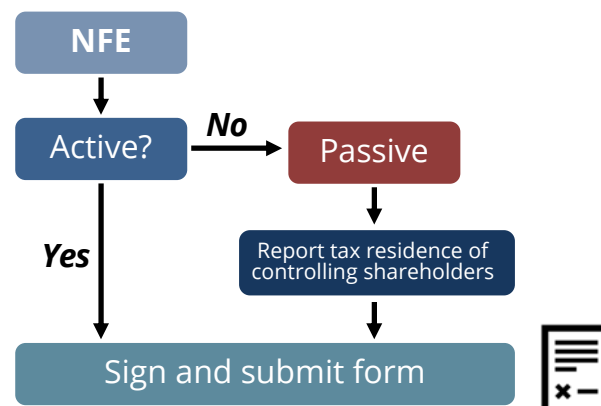


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For a Canadian private corporation that owns a cash value life insurance policy or a life annuity, the **entity type** will typically be self-certified as a non-financial entity (NFE) that is either:

- An Active NFE, or
- A Passive NFE.

The classification process typically requires determining whether the entity is an Active NFE, and if it is not, then it is a Passive NFE. A Passive NFE is then required to identify the tax residence of its controlling shareholders.



Paragraph (a) or (d) of the Active NFE definition in subsection 270(1) of the *Income Tax Act* is the most likely way a Canadian private corporation may qualify as an Active NFE:

- less than 50% of the NFE's gross income for the preceding fiscal period is passive income and less than 50% of the assets held by the NFE during the preceding fiscal period are assets that produce or are held for the production of passive income.
- all or substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more of its subsidiaries that engage in trades or businesses other than the business of a financial institution.

"Passive income" is not defined but should be interpreted to mean income derived from the mere holding of property, such as dividends, interest, rents, royalties, capital gains on assets that produce passive income, foreign currency gains, and income from cash value insurance contracts.

"All or substantially all" is not defined but is generally interpreted to mean 90% or more.

The information collected by CRA is available for sharing with the jurisdiction in which the account holder resides for tax purposes. CRS is a global standard for the automatic exchange of financial account information amongst more than 100 jurisdictions worldwide to better fight tax evasion and improve tax compliance.